

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CIVIL ACTION NO. 3:22-CV-00249

TEYWONIA BYRD,

Plaintiff,

v.

FAT CITY CONDOMINIUM OWNERS  
ASSOCIATION, INC.

Defendant.

**BRIEF IN SUPPORT OF**  
**DEFENDANT'S MOTION FOR**  
**ATTORNEY FEES**

NOW COMES Defendant, Fat City Condominium Owners Association, Inc. (“Fat City”), by and through undersigned counsel, and hereby respectfully submits this brief in support of its motion for attorney fees against Plaintiff, Teywonia Byrd (“Plaintiff”), pursuant to 42 U.S.C. § 1988.<sup>1</sup>

**FACTUAL AND PROCEDURAL BACKGROUND**

On June 1, 2022, Plaintiff filed this lawsuit in which she alleged three causes of action, including racial discrimination pursuant to 42 U.S.C. § 1981, intentional infliction of emotional distress and breach of fiduciary duty.

On November 21, 2023, this Court granted Fat City’s motion for summary judgment as to Plaintiff’s claims for intentional infliction of emotional distress and breach of fiduciary duty.

Beginning June 17, 2024, Plaintiff tried her case on her claim pursuant to 42 U.S.C. § 1981. Throughout trial, Plaintiff presented no evidence that any other owner, of any race, was allowed to have a security camera on the exterior of their door. Throughout trial, Plaintiff presented no evidence that any other owner, of any race, who violated the applicable governing

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<sup>1</sup> Fat City as a counterclaimant is separately filing a motion for its attorney fees.

documents in any way was not sent a notice of violation. Throughout trial, Plaintiff presented no evidence that any other owner, of any race, who refused to rectify any notice of violation was not fined in an identical amount as Plaintiff. Put simply, all the evidence presented was that Plaintiff was treated the same as all the other owners by Fat City.

### **LEGAL ARGUMENT**

42 U.S.C. § 1988 provides that in any action involving 42 U.S.C. § 1981, the prevailing party may be awarded reasonable attorney's fees. While 42 U.S.C. § 1988 makes no distinction between a plaintiff or defendant who prevails, prevailing defendants are entitled to attorney fees when the plaintiff's claim is "frivolous, unreasonable, or groundless" or when "the plaintiff continued to litigate after it clearly became so." *Hutchinson v. Staton*, 994 F.2d 1076, 1080 (4<sup>th</sup> Cir. 1993) *quoting* *Christiansburg Garment Co. v. EEOC*, 434 U.S. 412, 422 (1978).

Plaintiff's prosecution of her racial discrimination claim was unreasonable given the utter lack of evidence of any disparate treatment that Plaintiff experienced. Additionally, Plaintiff continued to litigate after it became clear that she was treated the same as the other residents by Fat City.

As evidenced by the Affidavit of Jeffrey Kuykendal, Fat City, as a defendant, incurred attorney fees in the amount of **\$65,639.00** to defend Plaintiff's claims against it. *See* Affidavit of Jeffrey Kuykendal, attached hereto as Exhibit "A." Accordingly, Fat City, in its role as a defendant, respectfully requests that the Court award it **\$65,639.00** pursuant to 42 U.S.C. § 1988.

This the 5<sup>th</sup> day of July, 2024.

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Attorneys for Fat City Condominium  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the date above, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all known counsel of record.

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